

## 58 Am. Jur. 2d Occupations, Trades, and Professions § 1

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Occupations, Trades, and Professions  
George L. Blum, J.D.

### I. Regulation, in General

#### A. In General

## § 1. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Licenses](#)  1

### Forms

[Am. Jur. Legal Forms 2d §§ 164:9 to 164:11](#) (Approval by Other Agencies—Form and letter)

[Am. Jur. Pleading and Practice Forms, Amusements and Exhibitions § 15](#) (Complaint, petition, or declaration—To enjoin threatened closing of theater as fire hazard by state official—Compliance with all fire and safety regulations)

[Am. Jur. Pleading and Practice Forms, Licenses and Permits § 16](#) (Petition or application—For judicial review of state licensing authority's grant of a license to another—By existing license holder)

[Am. Jur. Pleading and Practice Forms, Licenses and Permits § 32](#) (Petition or application—To licensing authority—For revocation of license—By licensee—For review of revocation of license)

[Am. Jur. Pleading and Practice Forms, Licenses and Permits § 43](#) (Petition or application—To licensing authority—For reinstatement of license)

A state-issued license to engage in a profession, trade, or occupation is a property right.<sup>1</sup> Every citizen has a natural and constitutional right to engage in any lawful business subject to such reasonable regulation as may apply to all persons engaged in the same kind of business.<sup>2</sup> A transaction privilege tax (TPT) is an excise tax on the privilege or right to engage in an occupation or business in the state.<sup>3</sup>

The government may infringe upon a license as long as the infringement is not arbitrary, unreasonable, or capricious.<sup>4</sup> That is, constitutional cognizance of a property interest in a vocational license requires a State to administer licensing schemes fairly. A

State may not arbitrarily deny a person a permit, nor may it capriciously revoke a person's permit. However, a State may alter the terms of a license or eliminate a license altogether so long as the alteration or elimination is rationally related to a legitimate state interest, such as the public health, safety, morals, or general welfare.<sup>5</sup> Aside from those reasonable regulations necessary to protect the public health and welfare, a State may not use newly enacted stricter standards for entry into a profession to deny those already legally practicing a profession of their right to continue practicing thereafter.<sup>6</sup>

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Footnotes

- 1 [U.S. v. Dieter, 198 F.3d 1284 \(11th Cir. 1999\) \(applying Georgia law\).](#)  
Unlike professional licenses issued under the Mississippi Code, Mississippi has always treated licenses to operate particular types of businesses as privileges in which no constitutional property rights vest. [Zumwalt v. Jones County Bd. of Sup'rs, 19 So. 3d 672 \(Miss. 2009\).](#)
- 2 [City and County of Denver v. Nielson, 194 Colo. 407, 572 P.2d 484 \(1977\).](#)
- 3 [Arizona Dept. of Revenue v. Action Marine, Inc., 218 Ariz. 141, 181 P.3d 188 \(2008\).](#)
- 4 [Allied Bail Bonds, Inc. v. County of Kootenai, 151 Idaho 405, 258 P.3d 340 \(2011\).](#)
- 5 [New York State Trawlers Ass'n v. Jorling, 16 F.3d 1303 \(2d Cir. 1994\).](#)
- 6 [Abramson v. Gonzalez, 949 F.2d 1567, 21 Fed. R. Serv. 3d 1021 \(11th Cir. 1992\).](#)

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